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10191/2313

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : LENZING et al.
Serial No. : 10/088,841
Filed : July 17, 2001
For : DEVICE FOR DETERMINING AT LEAST ONE
PARAMETER OF A FLOWING MEDIUM
Examiner : To Be Assigned
Art Unit : To Be Assigned

Box DAC
Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL

S I R:

In response to the Communication Regarding Submission Under 37 CFR 1.42 mailed October 8, 2002, applicants submit the following:

Response To Communication Regarding Submission Under 37 CFR 1.42

Declaration and Power of Attorney

Translations of Certificate of Inheritance, communication from German Notary's

Office and translation of Last Will signed by Dieter Tank

It is believed that no fees are due in connection with this Response. However, should any fees be due, the Commissioner is authorized to charge Deposit Account No. 11-0600 for such fees. A duplicate copy of this communication is enclosed for charging purposes.

Respectfully submitted,

By: *Richard L. Mayer* (Reg. No. 41,172)

Dated: 12/9/02

By:

Richard L. Mayer
Richard L. Mayer, Reg. No. 22,490



26646

PATENT TRADEMARK OFFICE

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New York, New York 10004
(212) 425-7200



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**RESPONSE TO COMMUNICATION REGARDING
SUBMISSION UNDER 37 C.F.R. 1.42**

SIR:

In response to the Notice Of Missing Requirements dated May 30, 2002, Applicants submitted a declaration executed by the surviving co-inventors and by Ms. Anke Fleischer for the deceased inventor Mr. Dieter Tank. Accompanying this declaration were translations of the certificate of inheritance, which identified Ms. Fleischer as the sole heir of Mr. Tank, and of a communication from the German Notary's Office, which describes a resolution arrived at between Ms. Fleischer vis-a-vis the deceased's parents, Mr. Johannes Tank and Mrs. Eva Tank, over the inheritance of the deceased's estate.

In the Communication of October 8, 2002, the Patent Office refused Applicants' submission on the grounds that the materials of Applicants' submission imply that the parents of the deceased also have an interest in the estate, notwithstanding the identification of Ms. Fleischer as sole heir in the certificate of inheritance, in which case their signatures on the declaration would be required as well. The Patent Office also refused Applicants' submission because the declaration did not expressly state the name of the person signing for the decedent and the relationship of the person to the decedent, and because the declaration did not include the

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citizenship, mailing address, and residence of the person signing for the decedent.

In response to this refusal, Applicants are submitting a new declaration signed by Ms. Fleischer and Mrs. Eva Tank as joint heirs of the deceased inventor. The materials that accompanied Applicants' prior submission, which are submitted again herewith as a courtesy, establish that these individuals are entitled to sign for Mr. Dieter Tank. In particular, the decedent's will states that Mr. and Mrs. Johannes and Eva Tank are to receive some of the property of the estate, and the communication from the German Notary's office, under the alternative to which Ms. Fleischer agreed, characterizes the property to go to the decedent's parents as an inheritance.

Please note that Mr. Johannes Tank's signature does not appear on the new declaration because he died on September 10, 2002.

The declaration submitted herewith identifies by name Ms. Anke Fleischer and Mrs. Eva Tank, states their relationship to the deceased inventor, and provides for each of these individuals their citizenship and residence. Therefore, acceptance of this submission is respectfully requested.

Respectfully submitted,

KENYON & KENYON

By: Richard L. Mayer (Reg. No. 41,172)

Dated: 12/9/02

By: Richard L. Mayer
Richard L. Mayer
Reg. No. 22,490

One Broadway
New York, NY 10004
(212) 425-7200



Official Copy

GR N No. 52/01

Notary's Office I Kornwestheim
Probate Court

Notary's Office I Rathaus, 70806 Kornwestheim
Telephone 07154/202-452

C E R T I F I C A T E O F I N H E R I T A N C E

Sole heir of

Dieter Tank
last residing in Kornwestheim, Pflugfelder Str. 68,
born 06/16/1963,

deceased on 01/31/2002 in Möglingen,

is:

Anke Fleischer,
Pflugfelder Str. 68 70806 Kornwestheim,
Born 08/02/1967.

04/25/2001

sgd. Längst

Notary

Executed!

This official copy is an exact copy of the
original.

Kornwestheim, April 25, 2001

Notary's Office Kornwestheim

Guardianship and Probate Court

Notary

Sgd.

- Längst -

Official Seal



Last Will

I, Dieter Tank, born 06/16/1963, bequeath to Anke Fleischer, born 09/02/1967, my apartment share of 57.6% in our jointly owned condominium apartment, the parking slot in the underground garage, as well as the remaining debt in connection with our joint loan.

Everything else goes to my parents, Eva and Hans Tank. Should my parents be unable to accept the inheritance, I leave this share in my property to Anke Fleischer as well.

Kornwestheim, 06/30/1998

Sgd. Dieter Tank



I GR N No. 52/01

Notary's Office I Kornwestheim

Probate Court

Notary's Office I Rathaus, 70806 Kornwestheim
Telephone 07154/202-452

Executed on 03/05/2001

Present: Notary Längst

Re: Probate Matter Dieter Tank
Last residing in Kornwestheim, Pflugfelder Str. 68,
deceased on 01/31/2001, Möglingen

OPENING OF THE WILL

For the opening, the following testamentary disposition has been presented:

Hand-written, unilateral will dated 06/30/1998. Delivered opened by Mrs. Anke Fleischer.

In view of the lack of testamentary disposition, legal heirs would be:

- a) the father, Johannes, called Hans, Tank
 - b) the mother, Eva Tank,
- both residing in 35037 Marburg, In der Wann 22
- one half to each -.

Mrs. Anke Fleischer has been summoned to appear at today's meeting.

Mrs. Anke Fleischer,
Pflugfelder Str. 68, 70806 Kornwestheim,
Born 08/02/1967,

- identified by presenting a personal identification card -

appears and states:

Further testamentary dispositions (last wills/contracts of inheritance) are not known.

The disposition was then opened and read.

The notary presented the following options with regard to the contents:

1st Alternative:

According to the wording, decedent did not name any heirs. Therefore, the parents Hans and Eva Tank, would be appointed heirs, at equal moieties. The apartment share of 576/1000, parking slot and the remaining mortgage would be taken over by Anke Fleischer by way of bequest.

In this alternative, the certificate of inheritance would have to be issued to the parents. The ownership in apartment share and parking slot would have to be transferred to Anke Fleischer, by way of notarial conveyance of land and assumption of debt. The remaining inheritance, in particular the accounts, would be passed to the parents as heirs by virtue of succession of inheritance.

2nd Alternative:

Decedent meant to appoint Anke Fleischer as the sole heir to his apartment share, the parking slot and the liabilities. At the same time, he meant to assign to his parents such inheritance not consisting of the apartment share, the parking slot and liabilities. In this case, the certificate of inheritance would have to be issued as certificate of sole inheritance to Anke Fleischer. Apartment share, parking slot and debts automatically pass to Anke Fleischer. Initially, the remaining inheritance would pass to Anke Fleischer as well, to be surrendered to the parents by Anke Fleischer. The notarial documents named for the 1st alternative would not be required in this case.

I, Anke Fleischer, favor the 2nd alternative. Should decedent's parents agree to this alternative, I will, naturally, undertake to surrender or transfer the remaining inheritance without delay.

As of today, this involves:

- | | |
|---|-------------|
| - balance at the Volkswagenbank
(available immediately) | DM33,180.19 |
| - balance at the Bundesschuldenverwaltung
(due 09/01/2006) | DM 4,000.00 |
| - Balance at Dresdner Bank
(capital-forming investments) | DM 3,654.41 |
| - Balance at Sparda-Bank | DM17,362.00 |

(checking account and savings certificates)

The VW Gold IV already has been handed over to decedent's parents.

At present, the remaining debt at Hypo-Vereinsbank stands at approx. DM314,000. In this context, decedent was internally liable to 50%, so that the inheritance is affected by ca. DM157,000.

I request that one certified copy of the last will and of the record of the proceedings be sent to me and decedent's parents.

A certificate of inheritance will only be requested once it has been decided how to interpret the testamentary disposition. The aid of the probate court is requested.

The fees are to be based on an inheritance of approx. DM130,000.

Read, approved and signed:

Anke Fleischer

Längst